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GENERAL COUNSEL'S REPORT

In this matter, the complaint, filed by Jonathan C. Jordan, alleges that Roy Carter for Congress and John C. Rhineberger, in his official capacity as treasurer ("the Committee")¹ accepted an unreported in-kind corporate contribution from Bully Documentary, Inc., ("Bully"), a television production company. According to the complainant, the Carter campaign ran four television advertisements, which were produced by Bully, as described on Bully's YouTube.com page at <http://www.YouTube.com.com/user/mojolingo>. According to the complainant, the Committee failed to list any disbursements in connection with the advertisements.

¹ Roy Carter was a candidate in 2008 in North Carolina's Fifth Congressional District.

1 Frank Eaton, the owner and operator of Bully, states that he volunteered his time to
2 create several short Internet and television advertisements for the Carter campaign which,
3 he asserted, resulted in no cost to himself, Bully, or the Carter campaign. Mr. Eaton also
4 maintains that it was his understanding that the Committee had "rectified the situation" by
5 reporting the value of his volunteer services, and attaches a copy of the Committee's 2008
6 Pre-General report, which lists \$1,500 as an in-kind contribution from Mr. Eaton for
7 "Commercial Shoot Production." In addition, Mr. Eaton notes that YouTube.com provides
8 a "free and public service," and reiterates that the Carter campaign spots posted on that site
9 did not result in any expense to Bully or to himself.

10 The Committee also asserts that Bully did not contribute its time or finances to the
11 Carter campaign. Rather, the Committee states that Mr. Eaton, who provided his services
12 as a volunteer, produced the video.² Both the Committee and Mr. Eaton assert that there is
13 no cost for posting videos on YouTube.com.

14 It appears that the Committee reported volunteer services even though it may not
15 have been required to do so. See 11 C.F.R. § 100.74. On the other hand, respondents do
16 not address Mr. Eaton's potential use of Bully's corporate facilities to produce commercials
17 for the Carter campaign, which could have had value and possibly considered as in-kind
18 corporate contributions. Therefore, in furtherance of the Commission's priorities and
19 resources, relative to other matters pending on the Enforcement docket, the Office of

² The Committee maintains that it calculated the value of Mr. Eaton's time for producing the video at \$500, based on the market rate for "television advertisement production offers" by Time-Warner Cable and Spotrunner.com, and that it had issued an amendment to its "May Report" (presumably, its 2008 July Quarterly Report) reflecting the value of Mr. Eaton's volunteer services as an in-kind contribution from him. The Committee's 2008 July Quarterly Report does not reflect any contributions from Mr. Eaton. However, if volunteer services were in fact rendered, they would not have constituted "contributions" and need not have been reported, 11 C.F.R. § 100.74.

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General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6091, close the file, and approve the appropriate letters.

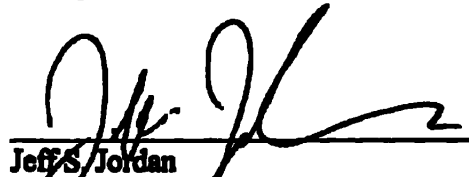
Thomasenia P. Duncan
General Counsel

11/2/09
Date

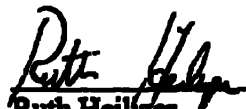
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